

Montana Water Court  
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**FILED**  
05/15/2023  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
43B-0778-R-2022  
Lambert, Kathryn  
12.00

MONTANA WATER COURT, YELLOWSTONE DIVISION  
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN  
BASIN 43B  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: GF Ranches LLC

OBJECTOR: GF Ranches LLC

**CASE 43B-0778-R-2022**  
43B 43375-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

Claim 43B 43375-00 appeared in the Preliminary Decree with the following remarks:

A LATE OBJECTION HAS BEEN FILED TO THE POINT OF DIVERSION AND VOLUME OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

The late objection was filed by Whidden Family Partnership. On May 11, 2023 the Order Granting GF Ranches LLC's Rule 25(c) Motion For Substitution was granted, substituting GF Ranches LLC as the objector. On March 14, 2023 GF Ranches LLC's Motion To Amend Claim No. 43B 43375-00 And Brief In Support ["Motion"] were filed. This is not a motion to amend filed pursuant to section 85-2-233(6), MCA, so additional analysis about notice is not needed. This settlement document is viewable in the Court's FullCourt Enterprise case management system.

#### APPLICABLE LAW

"All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section." Section 85-2-248(2), MCA.

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

#### FINDINGS OF FACT

1. The Motion states that GR Ranches LLC will not pursue the objection to volume. The volume should not be changed.
2. The Preliminary Decree states that the point of diversion is in the SWSWNE section 20, T1N, R15E, SWEET GRASS. The point of diversion legal description should be the SENWNW section 28, T1N, R15E, SWEET GRASS. The point of diversion issue remark should be removed as addressed and resolved.
3. The late objection remark should be removed as having served its notice purpose.

#### CONCLUSION OF LAW

The settlement filed by the claimant is sufficient to contradict and overcome the prima

facie claim and to resolve the issue remark without evidentiary hearing. Sections 85-2-248(3) and (11), MCA.

**RECOMMENDATIONS**

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

**ELECTRONICALLY SIGNED AND DATED BELOW**

**Service Via Email:**

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**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 43375-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** GF RANCHES LLC  
PO BOX 59  
PETALUMA, CA 94953

**Priority Date:** OCTOBER 25, 1899

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 3.83 CFS

**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 101.00

**Source Name:** UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENWNW	28	1N	15E	SWEET GRASS

**Period of Diversion:** JUNE 1 TO OCTOBER 1

**Diversion Means:** HEADGATE

**Period of Use:** JUNE 1 TO OCTOBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	38.00		NENW	28	1N	15E	SWEET GRASS
2	25.00		SENE	28	1N	15E	SWEET GRASS
3	18.00		NWNE	28	1N	15E	SWEET GRASS
4	20.00		SWNE	28	1N	15E	SWEET GRASS

**Total:** 101.00